IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2578 OF 2005
IN
FIRST APPEAL NO.710 OF 2006

Nandlal K. Ghianani ...Applicant
Vs.
M/s.Vergees Ceramics & Ors. ...Respondents

Ms N. N. Vaishnava for the Applicant.
None for the Respondents.

CORAM : A. S. OKA, J.
DATE : APRIL 04, 2006.

P.C.:

1. Heard the Advocate appearing for the Applicant. He submits that part of the decree which permits the original Defendant No.4 to withdraw a sum of Rs.25,000/- deserves to be stayed. The said sum of Rs.25,000/- was deposited by the Defendant NO.4 in compliance with a condition for grant of leave to defend.

2. After the suit is dismissed on merits, the Defendant NO.4 cannot be prevented from withdrawing the amount. However, the Defendant No.4 will be permitted to withdraw the said amount subject to giving an undertaking to the Trial Court to bring back the said amount with interest at the appropriate rate in case the Applicant/Appellant succeeds in this Appeal.

3. Subject to what is stated above, the Civil Application is rejected.

JUDGE